

Chapter 27.57

HISTORIC PRESERVATION DISTRICT

Sections:

27.57.010	Name and Citation of Title.
27.57.020	Purpose.
27.57.030	Definitions; General Provisions.
27.57.040	Landmark.
27.57.050	Landmark District.
27.57.060	Historic Preservation Commission Created.
27.57.070	Membership.
27.57.080	Organization.
27.57.090	Secretary and Staff of Preservation Commission.
27.57.100	Attorney; Duties.
27.57.110	Powers and Duties.
27.57.120	Designation of Landmarks and Landmark Districts.
27.57.130	Requirement of Certificate for Certain Work.
27.57.140	Procedure for Certificate.
27.57.150	Certificate Approval or Denial.
27.57.160	Procedure Following Certificate Denial.
27.57.170	Hazardous Structures.
27.57.180	Appeal.

27.57.010 Name and Citation of Title.

This title shall be known, referred to, and cited as "Historic Preservation District" of the City of Lincoln. (Ord. 12910 §1; April 28, 1980).

27.57.020 Purpose.

This title is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the city's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the city; to promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the city; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property. The historic landmarks and landmark districts are intended to be zoning overlay districts. (Ord. 12910 §2; April 28, 1980).

27.57.030 Definitions; General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory. (Ord. 12910 §3; April 28, 1980).

27.57.040 Landmark.

Landmark shall mean an individual structure, or an integrated group of structures on a single lot or site, or a site having special historical, cultural, architectural, or archeological interest or value. (Ord. 12910 §4; April 28, 1980).

27.57.050 Landmark District.

Landmark district shall mean an area containing a number of structures having special historical, cultural, architectural, or archaeological interest or value constituting a distinct section of the city. The landmark district shall have a minimum area of 45,000 square feet. (Ord. 12910 §5; April 28, 1980).

27.57.060 Historic Preservation Commission Created.

There is hereby created the historic preservation commission (hereinafter, the "Preservation Commission"). The Preservation Commission shall consist of seven members appointed by the Mayor with confirmation by a majority of the City Council. (Ord. 12910 §6; April 28, 1980).

27.57.070 Membership.

The Preservation Commission membership shall include at least two registered architects, one historian qualified in the field of American history, one registered landscape architect, if available; one licensed realtor; and two citizens at large. Members are to be appointed for terms of three years, provided that of those members first taking office, two shall be appointed for one year, two for two years, and three for three years. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term. (Ord. 12910 §7; April 28, 1980).

27.57.080 Organization.

The Preservation Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the city and the state. Four members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Preservation Commission. Members of the Preservation Commission shall serve without compensation. The Preservation Commission shall meet monthly. (Ord. 13727 §1; November 7, 1983; prior Ord. 12910 §8; April 28, 1980).

27.57.090 Secretary and Staff of Preservation Commission.

The Planning Director shall act as the non-voting secretary to the Preservation Commission. The city, through the Planning Department, shall provide the Preservation Commission with adequate staff to perform the duties prescribed under this chapter. (Ord. 12910 §9; April 28, 1980).

27.57.100 Attorney; Duties.

The City Attorney shall be ex officio the attorney for the Preservation Commission, and shall advise the Preservation Commission, and represent it in any and all legal disputes or court or administrative actions. (Ord. 12910 §10; April 28, 1980).

27.57.110 Powers and Duties.

The powers and duties of the Preservation Commission shall be as follows:

- (a) Initiate and maintain an inventory of all sites, structures, and districts potentially eligible for designation as landmarks or landmark districts, pursuant to the standards in Section 27.57.120.
- (b) Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
- (c) Inspect and investigate structures, sites, and areas which are believed worthy of preservation;
- (d) Disseminate information to the public concerning those structures, sites, and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of landmarks and property of interest;
- (e) Prepare National Register nominations and, after consultation with Planning Commission, City Council, and Mayor, forward them to the State Historic Preservation Office, for all such sites, structures, and districts the Preservation Commission deems eligible for inclusion on the National Register of Historic Places.
- (f) Solicit gifts and contributions to be made to the city and assist in the preparation of applications for grant funds to be made to the city for the purpose of preservation;
- (g) For every building or district designated for preservation, prepare a guideline for preservation of the property;
- (h) Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;
- (i) Prepare and deliver an annual report of the Preservation Commission's past actions and future goals to the City Council;
- (j) Make recommendations and do such other acts as are mandated by this chapter. (Ord. 12910 §11; April 28, 1980).

27.57.120 Designation of Landmarks and Landmark Districts.

A site, structure, or area may be designated as a landmark or landmark district if it is of historical, cultural, architectural, or archeological importance as evidenced by meeting one or more of the following standards for designation:

- (a) Associated with events, person, or persons who have made a significant contribution to the history, heritage, or culture of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States;

(b) Represents a distinctive architectural style or innovation, or is the work of a craftsman whose individual work is significant in the development of the City of Lincoln, the County of Lancaster, the State of Nebraska, or the United States; or

(c) Represents archeological value in that it yields or may be likely to yield information pertaining to prehistory or history.

Any person, group of persons, or association may request the designation of a landmark or landmark district by submitting a petition for such designation to the Planning Department upon a form furnished by the Planning Department. The Preservation Commission, in addition, may on its own motion submit a petition for designation. The Planning Director shall transmit all petitions to the Preservation Commission.

Each petition forwarded to the Preservation Commission by the Planning Director shall be considered by the Preservation Commission at a public hearing with a public record kept. Notice of the time, place, and purpose of such public hearing shall be published by the Planning Department in a daily newspaper having general circulation in the City of Lincoln and shall be mailed to the owners of all property included in the proposed designation not less than eight days prior to the date of the hearing, using for this purpose the name and addresses of the last known owners as indicated by the real property tax records of Lancaster County. The Preservation Commission may also give such other notice as may be deemed desirable and practicable.

Whenever possible, the Preservation Commission shall secure the written consent of the owner or owners before proceeding to secure designation as a landmark. The Preservation Commission shall apply the "standards for designation" in its decision.

Within ninety days of the receipt of the petition by the Planning Department, the Preservation Commission shall approve, disapprove, or modify the petition and shall notify the petitioner of its action. Petitions which are approved or approved as modified shall then be transmitted to the Planning Commission. Along with the petition, the Preservation Commission shall include a justification for the designation as a landmark or landmark district and its recommendations for guidelines for preservation of the landmark or landmark district.

The Planning Commission shall consider the petition at a public hearing with a public record kept. Notice of the hearing including posting of property shall be made according to Lincoln Municipal Code Section 27.81.050. Such posting shall include the property contained in the original petition and the modified petition, if any, unless the applicant and the Preservation Commission agree otherwise. The Planning Commission shall consider the petition in light of the "standards for designation" and the degree of conformity with the city's comprehensive plan. Within sixty days, the Planning Commission shall recommend approval, disapproval, modification, or continuance of the petition and shall notify the petitioner of its actions. All petitions except for those held for continued consideration shall then be transmitted to the City Council.

Upon receipt of a petition, the City Council may designate a landmark or landmark district by ordinance. The City Council shall consider the "standards for designation" as well as the recommendations of the Planning Director, the Preservation Commission, and Planning Commission, and shall further give consideration to the economic consequences to the city and to the affected owners. The designation shall be by majority vote, except that if any owner of property to be designated as a landmark does not consent to such designation, the vote shall be by two-thirds of the council members. A landmark district shall not be designated if written protests are made by owners of at least fifty-one percent of the included property,

excluding public right-of-way, at or prior to public hearing on the designating ordinance. The sufficiency of such protests shall be determined by the City Council.

Each designating ordinance shall include a description and statement of the significance of the landmark or landmark district to justify its designation and a description of the particular features that should be preserved, a guideline for preservation of the landmark or landmark district including particular restrictions as to construction, alteration, repair, or demolition of the landmark or property within the landmark district, and the legal description of the landmark or landmark district.

Within ten days after the effective date of the ordinance designating property as a landmark or a landmark district, the Planning Director shall send to the owner of record of such property so designated or each property within the designated landmark district, by registered or certified mail, a copy of the designating ordinance and a letter outlining the basis for such designation and the obligations and restrictions which result from such designation. Immediately after the effective date of the ordinance designating property as a landmark or landmark district, the City Clerk shall file certified copies of the designating ordinance with the Register of Deeds and with the Department of Building and Safety. (Ord. 13219 §1; October 12, 1981; prior Ord. 12910 §12; April 28, 1980).

27.57.130 Requirement of Certificate for Certain Work.

No person shall carry out or cause to be carried out on a landmark or in a landmark district any change in the appearance of a landmark or landmark district for which a building permit or demolition permit is required, as specified in the Lincoln Building Code for the city, or any change restricted by the particular designating ordinance without a certificate issued by the Preservation Commission or the Planning Director as described below. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the designating ordinance may be carried out without a certificate issued by the Preservation Commission. (Ord. 13468 §1; September 27, 1982; prior Ord. 12910 §13; April 28, 1980).

27.57.140 Procedure for Certificate.

The application for such certificate shall be filed with the codes administration and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Building and Safety shall require. The Department of Building and Safety shall review the application and plans for compliance with the existing building code ordinances and regulations. The application and plans shall be referred to the Planning Department.

The Planning Director may issue a certificate of "no material effect" if the application is for work which is not restricted by the designating ordinance and if the work contemplated in the application will have no effect on any architectural features of the landmark or landmark district as detailed in the particular designating ordinance and will be in harmony therewith.

Other applications shall be transmitted by the Planning Department to the Preservation Commission along with any recommendations by the Department of Building and Safety and the Planning Department. Within sixty days of receipt of the application by the Department of Building and Safety, the Preservation Commission shall hold a public hearing on the applications received by the Preservation Commission. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having a general circulation in the City of Lincoln and shall be mailed to the certificate applicant not less than eight days prior to the date of hearing. The Preservation Commission may also give such other notice as may be deemed desirable and necessary, including posting of the property affected.

During the public hearing, the Preservation Commission shall review the application and plans in light of the guideline for preservation of the property contained in the particular preservation designation ordinance for that landmark or landmark district. (Ord. 12910 §14; April 28, 1980).

27.57.150 Certificate Approval or Denial.

Within thirty days of the hearing, the Preservation Commission shall approve or deny the application for the certificate for certain work on the landmark or in a landmark district.

The Preservation Commission:

(a) May issue a certificate of "appropriateness" if, after focusing upon aesthetic, historical, and architectural values, it finds that the proposed work would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark or landmark district;

(b) May issue a certificate of "exception on the ground of insufficient return or hardship" if it finds that the landmark or property within the landmark district cannot yield a reasonable return if the proposed work is not permitted, that the plight of the applicant is due to unique circumstances, and that the hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant; or

(3) May refuse to issue a certificate, if it finds that the application does not meet any of the above criteria.

The Preservation Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit after issuance of a certificate by the Preservation Commission or the Planning Director without resubmittal to the Preservation Commission or the Planning Director and approval in the same manner as provided above. (Ord. 14082 §1; April 15, 1985; prior Ord. 12910 §15; April 28, 1980).

27.57.160 Procedure Following Certificate Denial.

If no certificate is issued, the applicant and the Preservation Commission shall enter into negotiations to develop a plan whereby modifications in the application would enable the Preservation Commission to issue a certificate under the criteria listed above and compatible with the guideline for preservation in the particular designation ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a landmark district or involves construction upon open areas of a landmark or within a landmark district and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the city may proceed by eminent domain proceedings to acquire the landmark or the affected property within the landmark district, but if the city does not initiate proceedings within ninety days, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. If the proposed work on a landmark or in a landmark district is other than the above and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. (Ord. 14082 §2; April 15, 1985; prior Ord. 12910 §16; April 28, 1980).

27.57.170 Hazardous Structures.

The Planning Director shall issue a certificate of "allowance on the ground of hazardous conditions" for razing a structure or other work if the codes administration has determined that the landmark or structure within the landmark district poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a landmark or property within a landmark district to become hazardous to human health and safety with the intent of then obtaining such permit. (Ord. 14082 §3; April 15, 1985; prior Ord. 12910 §17; April 28, 1980).

27.57.180 Appeal.

Any person aggrieved by any order, approval, disapproval, or other decision issued by the Preservation Commission, the Planning Director, or the Planning Commission may appeal such order, approval, disapproval, or other decision to the City Council by filing a written appeal with the City Clerk within thirty days of such order. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter.

The City Clerk shall refer the appeal to the City Council, which shall fix within thirty days a reasonable time for the hearing. Notice of the time, place, and purpose of such hearing shall be published in a daily newspaper having a general circulation in the City of Lincoln by the City Clerk and shall be mailed by certified or registered mail to the appealing party not less than eight days prior to the date of hearing. The City Council shall review the appeal and may in conformance with the provisions of this title reverse or affirm, wholly or partially, or may modify the order, approval, disapproval or other decision appealed from. In making a determination, the council may request information and recommendations from any department of the City of Lincoln. Every decision by the City Council shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the appeal. (Ord. 12910 §18; April 28, 1980).